

Qualified Reservist Distribution

Flexible Spending Accounts (FSA)

In June, 2008 President Bush signed the Heroes Earnings Assistance and Relief Tax Act (HEART Act) into law, and in February, 2009, the State of Delaware adopted this act into its Flexible Spending Account Plan Document. The Act is designed to help military personnel called to active duty who may otherwise forfeit dollars set aside in a Health Care Flexible Spending Account. According to the Act, an employer (plan sponsor) may make a cash distribution of unused Health Care FSA benefits to eligible reservists without disqualifying its cafeteria plan(s). This withdrawal is known as a **Qualified Reservist Distribution (QRD)**, and there are certain caveats in place that must be met before they are allowed.

Those caveats are:

1) **The individual must be a “reservist”**, as defined in 37 U.S.C. Section 101, which means the individual must be a member of one of the following:

- ↳ Army National Guard of US;
- ↳ Army Reserve;
- ↳ Navy Reserve;
- ↳ Air National Guard of US
- ↳ Air Force Reserve;
- ↳ Coast Guard Reserve; or
- ↳ Reserve Corps of the Public Health Service

2) **The individual is called to active duty for a period of 180 days or more or for an indefinite period.** The Office of Statewide Benefits must review the employee’s call or order to duty before granting an employee request for a distribution. If the order or call specifies that the period of active duty is either 180 days or more or indefinite, the reservist is eligible for a distribution – even if the actual period of active duty ends up being less than 180 days. By contrast, if the period specified is less than 180 days, qualified distributions would not be allowed (unless later orders or call-ups extend the period).

3) **The request for distribution is made during the period beginning with the order or call to active duty and ending on the last day of the plan year (or grace period, if applicable).** A reservist must request a distribution after the order or call to active duty, but before the last day of the plan year including the grace period.

Amount of Distributions

The QRD is restricted to the amount actually contributed to the health FSA at the time of the request minus any reimbursements actually received. The eligible employee must complete a **QRD FORM** found below, and the approved reimbursement amount will be processed through the State. QRDs are taxable, and will be included in the gross income and wages of the employee, and are subject to employment taxes. A QRD must be reported as wages on the employee’s W-2 for the year in which the QRD is paid to the employee.

This amendment to the plan is retroactive to June 18, 2008. If you were activated on or after that date for a period of six months or more who were/are enrolled in a Health Care FSA, please be aware of this new provision.

Please refer any specific questions about the HEART Act to ASI or to the Statewide Benefits office. Additional information regarding Qualified Reservist Distribution can be located in the “Guide to Your FSA Benefits” at www.ben.omb.delaware.gov/fsa.



Contact Statewide Benefits Office with Questions:

Phone: (800) 489-8933
Fax: (302) 739-8339
Email: benefits@state.de.us
Web: www.ben.omb.delaware.gov

Qualified Reservist Distribution Request Form

The **Heroes Earnings Assistance and Relief (HEART) Act** allows for military personnel who are called to active duty for more than 180 days to make withdrawals from a health FSA via a **Qualified Reservist Distributions (QRD)**.

Name (Last, First, MI)	Social Security Number
Employer	Employee ID Number
State of Delaware	
Reserve Component* (i.e. branch of service)	Date called to active duty

QRD Disbursement Request

The maximum amount of your distribution is determined by the State of Delaware's Plan Design. If you have questions, please contact your Benefit Representative or the Statewide Benefits Office. **Qualified Reservist Distributions** payment is considered to be taxable income.

☐ I elect to withdraw my total available balance in my Health FSA
(Total amount contributed less amount reimbursed as of the date of the request)

☐ I elect to withdraw only a portion of my Health FSA.

Amount Requested

\$

Participant Certification

I certify that I am a member of the reserve component outlined above and have received orders or the call to duty for a period of 180 days or more. I am an employee participating in my employer's health flexible spending account within the current plan year. I understand that prior year fund balances as well as amounts forfeited prior to June 18, 2008 are not eligible for disbursement as a **QRD**. I understand that **QRDs** are only available for funds in the **Health Care Flexible Spending Account**.

Additionally, I understand the **QRD** is a **taxable withdrawal** from my **Health Care Flexible Spending Account**.

I certify that all of the above requirements have been met and am requesting withdrawal of the funds as indicated above. **Attached is a copy of my order or call to duty.** I understand the **QRD** will not be distributed unless I provide a copy of my orders or call to duty along with this form.

Participant Signature	Date
Employer Signature	Date

RETURN COMPLETED FORM TO STATEWIDE BENEFITS OFFICE BY FAX, 302-739-8339.

*Paragraph 24 of section 101 of title 37 of the United States Code defines the term "reserve component" to mean: the Army National Guard of the United States; the Army Reserve; the Navy Reserve; the Marine Corps Reserve; the Air National Guard of the United States; the Air Force Reserve; the Coast Guard Reserve; or the Reserve Corps of the Public Health Service.